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10 Attorneys for Plaintiff
11 PAUL J. GAYNOR

12 THE UNITED STATES DISTRICT COURT
13
14 NORTHERN DISTRICT OF CALIFORNIA
15

16 PAUL J. GAYNOR,

17 Plaintiff,

18 v.

19 AHMAD CHATILA, an individual and
20 BRIAN WUEBBELS, an individual,

21 Defendants.
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Case No. 3: 16-cv-06305-WHO

**STIPULATION AND ORDER (1)
PERMITTING PLAINTIFF TO FILE
A SECOND OPPOSITION TO
DEFENDANT BRIAN WUEBBELS'
MOTION TO DISMISS COMPLAINT
FOR DAMAGES AND (2)
CONTINUING THE DATE FOR THE
HEARING FOR DEFENDANTS'
MOTIONS TO DISMISS,
DEFENDANT CHATILA'S MOTION
TO STRIKE, AND INITIAL CASE
MANAGEMENT CONFERENCE IN
LIGHT OF THE ADDITIONAL
BRIEFING**

1 Pursuant to Rule 16 of the Federal Rules of Civil Procedure and Civil Local Rules 7-12
2 and 16-2, Plaintiff Paul J. Gaynor and Defendants Ahmad Chatila and Brian Wuebbels
3 (collectively, the “Parties”), by and through their respective counsel of record, jointly stipulate
4 and agree as follows:

5 **WHEREAS**, on January 27, 2017, Defendant Wuebbels filed a Motion to Dismiss
6 Complaint for Damages (Dkt. No. 39) and Joinder to Defendant Chatila’s Motion to Dismiss
7 (Dkt. No. 40).

8 **WHEREAS**, on February 9, 2017, Plaintiff filed his Opposition to Defendant Wuebbels’
9 Motion to Dismiss (Dkt. No. 46), but counsel for Plaintiff inadvertently did not substantively
10 respond to Defendant Wuebbels’ Motion to Dismiss Complaint for Damages, as counsel for
11 Plaintiff mistakenly missed Defendant Wuebbels’ Motion to Dismiss Complaint for Damages
12 (Dkt. No. 39) that was filed on the same day as Defendant Wuebbels’ Joinder to Defendant
13 Chatila’s Motion to Dismiss (Dkt. No. 40).

14 **WHEREAS**, on February 17, 2017, Defendant Wuebbels filed his Reply in Support of
15 Motion to Dismiss Complaint for Damages (Dkt. No. 47).

16 **WHEREAS**, on February 21, 2017, counsel for Plaintiff Gaynor, after reviewing
17 Defendant Wuebbels’ Reply in Support of Motion to Dismiss Complaint for Damages (Dkt. No.
18 47), discovered that Defendant Wuebbels had filed a Motion to Dismiss Complaint for Damages
19 (Dkt. No. 39), which Plaintiff Gaynor had not substantively opposed.

20 **WHEREAS**, on February 21, 2017, counsel for Plaintiff informed counsel for Defendant
21 Wuebbels of counsel for Plaintiff’s mistake, and counsel for Plaintiff stated they were prepared
22 to file a motion for relief due to mistake, inadvertence, and excusable neglect under Federal Rule
23 of Civil Procedure 60(b)(1).

24 **WHEREAS**, counsel for Plaintiff asked counsel for Defendant Wuebbels to agree to a
25 stipulation allowing Plaintiff to file a second Opposition to Defendant Wuebbels’ Motion to
26 Dismiss and to modify the briefing schedule accordingly so that counsel for Plaintiff would not
27 need to file a motion for relief due to mistake, inadvertence, and excusable neglect under Federal
28 Rule of Civil Procedure 60(b)(1).

1 **WHEREAS**, counsel for Defendant Wuebbels, in light of Plaintiff's representation,
2 agreed to stipulate to a new briefing schedule that would permit Plaintiff Gaynor to file a second
3 opposition to Defendant Wuebbels' Motion to Dismiss Complaint for Damages (Dkt. No. 39) on
4 or before Friday, March 31, 2017, and permit Defendant Wuebbels to file a reply brief thereto on
5 or before Friday, April 14, 2017.

6 **WHEREAS**, hearing on (1) Defendant Wuebbels' motions to dismiss (Dkt. 39); (2)
7 Defendant Chatila's motion to dismiss (Dkt. 29); (3) Defendant Chatila's motion to strike (Dkt.
8 30); and (4) the Initial Case Management Conference is currently set for April 5, 2017.

9 **WHEREAS**, in light of this additional briefing and proposed briefing schedule, the
10 Parties have conferred and agree to continue the hearing date for (1) Defendant Wuebbels'
11 motions to dismiss (Dkt. 39); (2) Defendant Chatila's motion to dismiss (Dkt. 29); (3) Defendant
12 Chatila's motion to strike (Dkt. 30); and (4) the Initial Case Management Conference to May 31,
13 2017, or as soon thereafter as is convenient for the Court.

14 **WHEREAS**, the Parties have conferred and agree that continuing the hearing date will
15 accommodate the new briefing schedule by permitting the Court adequate time to review the
16 briefs related to Defendant Wuebbels' Motion to Dismiss before the hearing, and it remains in
17 the interest of judicial efficiency to keep the hearing on the pending motions and Initial Case
18 Management Conference consolidated on the same date:

19 **THEREFORE, IT IS STIPULATED AND AGREED THAT:**

- 20 1) The parties jointly request that the Court modify the briefing schedule for Defendant
21 Wuebbels' Motion to Dismiss Complaint for Damages (Dkt. No. 39) such that
22 Plaintiff may file a second opposition to Defendant Wuebbels' Motion to Dismiss
23 Complaint for Damages (Dkt. No. 39) on or before Friday, March 31, 2017, and
24 Defendant Wuebbels may file a reply brief thereto on or before Friday, April 14,
25 2017; and
26 2) The parties jointly request that the Court continue the hearing dates for Defendant
27 Chatila's and Defendant Wuebbels' motions to dismiss, Defendant Chatila's motion
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1 to strike, and the date of the Initial Case Management Conference to May 31, 2017,
2 or as soon thereafter as is convenient for the Court.

3
4 DATED: February 28, 2017

Respectfully submitted,

LOUDERBACK LAW GROUP

5 By:

6 /s/ Charles M. Louderback

Charles M. Louderback

7 Stacey L. Pratt

Attorneys for Plaintiff PAUL GAYNOR

8
9 DATED: February 28, 2017

MUNGER, TOLLES & OLSON LLP

10
11 By:

12 /s/ E. Martin Estrada

E. Martin Estrada

13 Jessica Reich Baril

Attorneys for Defendant BRIAN WUEBBELS

14
15 DATED: February 28, 2017

GIBSON, DUNN & CRUTCHER LLP

16 By:

17 /s/ Sarah Zenewicz

Joel M. Cohen

18 Gabrielle Levin

Sarah Zenewicz

19 Attorneys for Defendant AHMAD CHATILA

20 **CONSENT TO ELECTRONIC FILING**

21 I have concurrence in the filing of this document which has been obtained from
22 E. Martin Estrada and Sarah Zenewicz, which shall serve in lieu of their signatures on this document.

23
24 DATED: February 28, 2017

LOUDERBACK LAW GROUP

25 By:

26 /s/ Charles M. Louderback

Charles M. Louderback

27 Attorneys for Plaintiff PAUL GAYNOR

~~PROPOSED~~ ORDER

Pursuant to the parties' stipulation, IT IS SO ORDERED that

- 1) The briefing schedule for Defendant Wuebbels' Motion to Dismiss Complaint for Damages (Dkt. No. 39) is modified such that Plaintiff Gaynor may file a second opposition to Defendant Wuebbels' Motion to Dismiss Complaint for Damages (Dkt. No. 39) on or before Friday, March 31, 2017, and Defendant Wuebbels may file his reply brief thereto on or before Friday, April 14, 2017; and
- 2) The hearing date for Defendant Chatila's and Defendant Wuebbels' motions to dismiss, Defendant Chatila's motion to strike, and the date for the Initial Case Management Conference is continued to May 31, 2017 at 2:00 p.m.

DATE: March 2, 2017

By: 

The Honorable William H. Orrick
United States District Judge